

October 1, 2008

Philip Giudice, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Comments – RPS Import Feasibility

Dear Commissioner Giudice:

As organizations representing business and environmental interests, we write to encourage the Department of Energy Resources to recognize that existing rules strike an appropriate balance in addressing imports of renewable energy and that it is not feasible to adopt and implement “capacity” or “netting” requirements for such clean energy resources pursuant to Green Communities Act Section 105 (c) and (e). These requirements, if adopted and implemented, would further limit the ability of out-of-state and out-of-ISO-NE Control area renewable energy to be used to satisfy the Massachusetts Renewable Energy Portfolio Standard (“RPS”), with corresponding negative economic and environmental implications.

In addition to the detailed comments submitted by many of the undersigned stakeholders, we write collectively to urge you to resist further increasing the restrictions on RPS eligibility for imports for the following reasons:

- **Cost.** Any restrictions on imports will reduce the supply of renewable energy that is eligible to meet the RPS requirements and thus will increase the cost for ratepayers. At this time of record energy prices, we should be careful to avoid unnecessary increases in the costs of RPS compliance.
- **Reliability.** The region depends on imports and exports to balance its energy markets for purposes of maintaining reliability. Rules that restrict imports may result in harmful effects within the ISO New England region and in other markets upon which we depend.
- **Economic development.** The growing Massachusetts clean energy industry requires open markets given that most Massachusetts companies export their services outside our boundaries. If Massachusetts is seen as closing its borders unreasonably then it will be harder to argue for open and fair markets in other states or countries.
- **Regulatory Predictability.** Regulatory predictability is important for developing and financing any energy project, including renewable energy projects. Because import restrictions would be vulnerable to challenge, their adoption would significantly reduce predictability for renewable energy projects inside and outside of Massachusetts and would likely have a chilling effect on renewable energy development for the Commonwealth. In addition, implementation of the clauses in question could also have

severe consequences for existing renewable energy power purchase agreements serving Massachusetts ratepayers (including agreements approved by the Massachusetts DPU).

- **Administrative Feasibility and Burden.** Serious questions have been raised as to whether imported renewable energy could reliably meet any newly imposed capacity requirements, given how ISO New England Forward Capacity Market rules are structured and whether any “netting” limitation could even be tracked and implemented. Further, even if such requirements were workable, they would add significant undue administrative burden and cost with questionable benefits.
- **Renewable generation development potential in Massachusetts.** We urge careful scrutiny of projections for the near-term development of new renewable energy generation in Massachusetts. Several recent studies and public comments about the potential for wind, biomass, landfill gas, solar and other technologies seem not to reflect the siting and other challenges faced by these projects, thus implicitly understating the role of renewable energy from other states within ISO New England and from adjacent control areas with respect to meeting the requirements of the Massachusetts RPS.

Importantly, in enacting the Green Communities Act the General Court did not resolve one way or another the issue of whether it is feasible to implement “capacity” and “netting” requirements, and instead took the unusual step of requiring the Department to make this threshold determination – highlighting the significance of very real questions that have been raised about these potential requirements. The Act also prohibits the adoption of any such requirements unless the Department makes an affirmative finding that they are feasible.

In light of the issues we have raised, we ask the Department to make the only finding that makes sense – i.e., that further restrictions on imports of renewable energy would be inappropriate and that it is *not* feasible to adopt capacity and netting requirements that would restrict imported renewable energy from qualifying pursuant to the Massachusetts RPS.

Sincerely,

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Conservation Law Foundation

Patricia Stanton, Vice President, Clean Energy Markets
Conservation Services Group

Robert A. Rio, Senior Vice President
Associated Industries of Massachusetts

John DeVillars, Managing Partner
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Nathan Hebel, Director, Energy Trading
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Tom Bessette, Vice President Energy Policy
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